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Testimony Of
David Kelman, Connecticut Condo Owners Coalition
Before The Legislature's Insurance And Real Estate Committee
Tuesday, February 1, 2011
Time 1:00pm, Room 2D, LOB, Hartford

RECOMMENDED COMMITTEE ACTION: VOTE IN FAVOR of HB6234 and HB 6237

My name is David Kelman. I reside at 89 Shadow Lane, West Hartford, CT. I am a volunteer with the Attorney General's Office, Consumer Assistance Unit, as well as a member of the recently organized Connecticut Condo Owners Coalition, a group of ordinary citizens who have banded together to protect the rights of condo owners in our state.

I respectfully request your support of HB 6234 and HB 6237.

The increasing number of complaints filed with the Attorney General's Office and the Department of Consumer Protection over the past few years indicates condo owner confidence in the governance and management of their associations has eroded. We look to you to help restore homeowner trust. Read the emails sent in to your from condo owners. Read the complaints in the Attorney General's office. Some of the complainants are very serious and are of real concern.

Despite the vast body of law regulating condo communities, condo boards and property managers act as if those statutes and community bylaws don't apply to them. In my community there has been a pattern of questionable elections practices, including altering and distorting information provided by board candidates for publication to owners, property manager and board members counting ballots in private only with no non-partisan or independent panel overseeing ballot count, refusal to make absentee ballots or electronic voting available to owners, and proxy games.

I would add to the language in HB6234 that unit owners should be told that if they cannot attend meetings in which a vote is to be taken owners may mail-in or drop-off a ballot in a sealed envelope not to be opened until the ballots are counted, and to also allow electronic voting.

Each association should be required to have a dispute resolution process in place, which is published annually to owners. It is my experience that property managers condone board's actions regardless of fairness or legality and, in many instances, have reacted angrily to owner inquiries. There is often no transparency regarding elections and financial record keeping.

I would also like to see mandatory property manager training and board member training, term limits for association board members, property licensure with issuance and renewal dependent upon certification of training.

In addition, I urge incorporating the provisions of the Community Association Managers statute into the Common Interest Ownership Act, including giving the Commissioner of the Department of Consumer Protection the authority to revoke, suspend or refuse to issue a new or renewable certificate of registration, defining the services a property manager shall provide to an association, and property manager mismanagement shall be grounds for revoking or refusing to renew a manager's license. Essentially, all mandates in the Common Interest Ownership Act shall apply to community managers as well.

The Community Association Managers statutes, Chapter 400b, describe the services property managers may provide for remuneration and among them "advising the association on the overall operations of the association".

By incorporating the elements I mentioned, it eliminates the missing links in the Common Interest Ownership Act. Critical to association's effectiveness, the property manager should be held accountable for ensuring that any associations he or she manages in operating in accordance to the association's bylaws and to state law, and greatly reduces the inherent problems of runaway boards, which would reduce owner complaints. All become accountable for their actions.

Finally, I believe that there is a great need for an enforcement statute or condo complaint center to provide some needed relief to those aggrieved owners who cannot afford to hire private counsel to resolve their grievances. By incorporating bills like these into law, filters will be put into place resulting in fewer condo owner complaints.

Please vote in favor of HB 6234 and HB 6237. Thank you.

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Random Excerpts from among Hundreds of Connecticut Condo Owner Emails to Legislators and/or Connecticut Condo Owner Coalition

These are serious issues, and many owners across Connecticut face the same issues. These are reasons why legislation to ensure condo law enforcement is needed.

- Board authorizing multi-million dollar loans without owner approval resulting in significant owner debt.
- Mold issues not addressed by condo board or property management. I have had to vacate due to severe water damage and mold from leaks in the new roof, which has also damaged other units as well.
- Tampering with board elections and not holding elections as required; property manager mailed out letters to owners strongly suggesting that we keep two current board members on for another term.
- Ballots with envelopes were sent out. Instead of counting ballots because property manager claimed they were running out of time at the annual meeting, property manager said he would simply announce the winners who, by the way, were the very same people he had strongly recommended. No count or any kind of validation.
- Board members that have sat on the board in some cases for 10 years or more playing the proxy game to keep the same people together and keep out any newcomers; These proxies have allowed the Board to control a majority vote at the annual meetings.
- Neither board nor property manager providing owner access to association records (in violation of state law).
- Not publishing meeting minutes, not distributing them to owners (in violation of state law).
- Tacking a four year roofing project and turning it into a 10-year project costing unit owners an additional \$1.1M
- Not engaging in a formal or equitable bidding process for major capital expenditures over \$100,000.
- Board not disclosing detailed accounting for project cost overruns.
- Board and managing agent refusing to hear owner concerns or complaints.

- Board refusing services or repairs to unit owners who express dissenting concerns or questions relating to association matters.
- Board does not following bylaws or state law.
- Board holds meetings without unit owner notice, and abusing the use of Executive Sessions.
- Board president eliminating the Building and Grounds Committee because he had a personality conflict with the committee chairman.
- Board, without notifying all the owners or obtaining a vote of approval from the owners, filed a lawsuit against the developer, the builder, and the Building Department. The Board has spent in excess of \$250,000 on this matter before going to trial.
- Board failed to respond (twice) to written questions concerning the Budget.
- We are a freestanding unit with no other condos. The declarant cannot find anybody to help him build any other units so he trying to fine us to death and make us pay unreasonable lawyer fees.
- In an association meeting in December, we were informed that the association broke a contract that they had with the landscapers, and thus the landscapers turned around and filed an intent to sue the association costing owners \$15,000 to work out the problem. Owners had to pay a \$1,000 special assessment fee.
- President of the Board is a tyrant. She took out a \$2 million dollar loan and we were accessed, even the elderly owners who don't know how they will pay. She did improvements that weren't needed and didn't do those that were needed. She paid a contractor in full up front and he never showed up. She fired members of the Board that didn't agree with her and replaced them with people that would. We were finally able to elect a new Board member that was able to get enough votes to vote her off. It took hiring a lawyer and asking a policeman to attend the meeting.
- I have been a Waters Edge time-share owner since its inception in 1986. I attend as many of the annual owners meetings as I can. These meetings are a joke! The board does what it wants to do, and the owners have nobody that can help them.
- The Water' Edge Ownership and Board of Directors (many of whom own the facility) are looking to eliminate our access to the property. This has been done even though numerous timeshare owners have voiced their opposition.
- My husband is the president of a condo association and had experienced problems of misappropriated funds from three property managers.
- It is nearly impossible for owners to get a new issue onto the agenda for discussion.
- Currently, there is no agency in the State of Connecticut responsible for enforcing the condominium statutes.
- An Ombudsman for common interest communities could be a critical selling feature for future S.M.A.R.T. housing development and attract new residents to Connecticut, which would benefit Connecticut's tax roles. The S.M.A.R.T. program provides strong incentives for high-quality, affordable housing, and gives developers access to an efficient, fast, and consistent development process.

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